

**GOVERNMENT OF ANDHRAPRADESH
ABSTRACT**

Evacuee Properties – Revision petition filed by LR's of Ramesh Kumar, for allotment of Evacuee property Admeasuring 6000 sq. yards in plot No.7 Road No.2, Banjarahills, Hyderabad – Appeal allowed – for allotment of equal alternative land admeasuring 6000 sq. yards in Sy.No. 28 of Khajaguda (V) – Serlingampally (Mandal) Ranga Reddy District — Orders issued.

GO.Ms.No. 236

Dated: 21-2-2009.

Read the following:-

- 1) Orders of CCLA,Hyd in SEP/797/85 dt.25-01-2008.
- 2) Revision petition filed by the Legal heirs of late Ramesh Kumar dt.19-3-2008 & 4-6-2008.
- 3) From the District Collector ,Hyderabad Lr.No.LPO 1/F3/8321/97 dt.25-10-2008.
- 4) From the CCLA . Hyderabad, Lr.No.SEP1/122/08 Dated.05-11-08.
- 5) Govt .Memo.No.14367/JA.1/2008-7 Dt.18-12-08.
- 6) From the District Collector ,Ranga Reddy Lr.No.E1/7930/08 Dt.27-1-09 & 06-02-2009.

ORDER :-

Whereas in the reference 2nd read above the Legal heirs of late Ramesh Kumar i.e Smt.Kamala Ganorkar w/o M.C. Ganorkar D/O Late.G.B.Ketkar and Smt.Kaushal Wahegaonkar w/o.sri.Lakshmi Kantarao D/O Late.G.B.Ketkar.has filed revision petition stating that he had purchased 6000Sq.yards of land, which is an evacuee property, in sy. No. 166 of Afzal Sagar, Mallepalle, Hyderabad Dist., the auction conducted by the Regional Settlement Commissioner, Bombay and issued sale certificate on 29.11.1961. However, the possession of the said property was not handed over to the said Ramesh Kumar in view of the fact that rental arrears were due. In the year 1967, the said Ramesh Kumar had offered to the Govt. to clear the rental arrears. Subsequently, the evacuee lands was transferred from the Regional Settlement Commissioner, Bombay to the Govt. of A.P. in the year 1980.Accordingly Ramesh Kumar made an application to the Commissioner, Survey, Settlements and Land Records seeking possession of land upon clearance of the rental dues. He had also made an application to the Secretary to Government Revenue Dept. requesting allotment of land and acceptance of dues. On 4.8.1994, the Commissioner of Survey, Settlement and Land Records, vide Proceedings EP1/797/85, had called upon the GPA Holder of auction purchaser to produce arrears of rentals so that the application would be processed. He has replied on 26-8-1994 to the Commissioner of Survey, Settlement and Land Records stating the fact of re-auction while requesting to hand over the possession of the property. On 17.9.94, the Commissioner of Survey, Settlement and Land Records had intimated to the applicant that the physical possession cannot be handed over at this belated stage . Thereafter, the petitioner filed revision before the Govt. the same was allowed on 17.5.95 with a direction that dues of rental arrears be collected together with interest from Ramesh Kumar and also passed an order for release of the property in Sy.No.166 of Afzal Sagar, Mallepally, Hyderabad to the GPA holder of Ramesh Kumar. Consequently, the Commr. SS&LR,Hyd , had directed the Collector ,Hyderabad District to collect the rental arrears of Rs. 2,332.27 together with simple interest at the rate of 6% from Ramesh Kumar and also requested the Collector,Hyd to arrange to handover possession of 6000 sq.yards of land in sy. No. 166, Afzal Sagar, Mallepally, Hyderabad. Accordingly, the said Ramesh Kumar had deposited the rental arrears amounting to Rs. 7,327/- vide challan no. 25479, dated:29.9.1995.When the spot inspection was conducted for handing over the possession of the said land it was found that the land was completely encroached upon by several people. Thereafter, the Joint Collector,Hyd was asked to furnish details of alternative land available in Golconda Mandal and accordingly the Joint Collector,Hyd addressed a letter to the Com. SS&LR, Hyd stating that the land to an extent of Ac.1.03 guntas in Plot No.7, situated at Road No.2, Banjara Hills, Hyderabad is vacant and may be handed over to the Ramesh Kumar. Subsequently the Secretary to Govt. Revenue Dept. vide letterdated:26/8/97 had rejected the allotment of alternate land in lieu of

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6000sq.yards of land purchased by Ramesh Kumar. The same was challenged by the applicant in W.P.No.31656/97, on the ground that since the Govt. had sold the property and possession of the property was not handed over. The operative portion of orders dt.17-07-1998 of High Court is as follows." considering both the aspects in the matter ,this court directs the respondents herein to refund the money collected by the respondents from the petitioner as a price of the land which was allotted to him with interest 18% p.a. from the date of acceptance of the amount till it is paid to the petitioner within two months from today. With these directions, the writ petition is disposed off." The applicant has filed in W.A. No. 1644/98 the same was also dismissed in its order dated.12.10.1998.The operative portion of the order is as follows." Be that as it may ,since the cause of action is based on the sale certificate issued in the year 1961,question of enforcement of the sale certificate in the year 1998 does not and cannot arise. In that view of the matter we are unable to lend any concurrence with the submission of the learned Advocate appearing in support of the appeal. The appeal, therefore fails and is dismissed". The petitioner filed SLP 1382/99 and Civil Appeal in S.C. of India No.6087/99. On 12-4-1999 the Honorable Supreme court has ordered as follows.

" Mr.Ram kumar ,learned counsel appearing for the State of Andhra Pradesh applies for time to seek instructions as to whether any other property with in the limits of Municipal Corporation of Hyderabad is available as an evacuee property which could be allotted to the petitioner. The matter adjourned for three weeks.

The petitioner withdrew the SLP and the SC of India passed the orders on 3-3-2005 as follows.

" Counsel for the appellants seeks to withdraw this appeal to explore the possibility of getting his grievance redressed in any other forum available to him .The Civil Appeal is dismissed as withdrawn."

Whereas after withdrawal of SLP , the petitioner, filed another petition before the CCLA., Hyderabad. While the matter stood thus the GOI have repealed the Displaced Persons Act in the year 2005 and the same was communicated to CCLA, Hyd. After examining the matter, the Chief Commissioner, Land Administration, had rejected the request of the auction purchaser "with a reason that he has no case to consider as he lost the same with the orders of Supreme Court of India" vide orders No. CCLA RC.No.SEP3/ 797/85 dated:25.1.2008.

After rejecting the claim by the CCLA, Hyd, the LR's of Ramesh Kumar filed revision petition and application before the Govt, to allot the land in plot no.7, Road No.2 of Banjara hills of Hyderabad Dist. and also requested to the Govt, to give an opportunity for hearing to represent their case vide reference 2nd read above.

Where as in the year 1980 with a view to effecting economy in expenditure and ensuring proper arrangement, the GOI empowered the State Governments to deal with the EP Acts. Accordingly the Government of Andhra Pradesh have taken up the matter .The CCLA, Hyderabad is the custodian for the evacuee properties for allotment of evacuee lands under DP the Act.1954.The EP Laws were repealed by the Govt. of India, vide Displaced person Claims and Other Laws Repeal Act, 2005(Central Act 38 of 2005) with effect from 5-9-2005 and the same was published in the Central Gazette on 6-9-2005.Subsequently the Government of India vide letter No.MHA/RD/SW/CC/99, dt. 19.10.2005 and 18.11.2005 , have clarified that all files pertaining to the said Evacuee Laws may be closed and further the Section 6 of the General Clauses Act will not apply to these cases. After taking views of the Law Dept instructions were issued in Govt. Memo. No. 58140/JA1/2006-1, dated: 12.1.2007 to C.C.L.A, Hyderabad as under

- (1) the proceedings which were initiated before the repeal of aforesaid Acts, will come to an end and cannot continue after such repeal and
- (2) after the repeal of these acts no action can be taken or any authority exercised under the repealed Acts by these notified authorities. The notified authorities shall be deemed to be discontinued.

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Further, keeping in view of the subsequent appeals and further representations received on pending claims the GOI was addressed for seeking further clarity in the matter. The GOI advised to take up the cases of the following categories.

- 3.1 Unsatisfied verified claims filed under the Displaced Persons (Claims) Act, 1950, in which right has accrued or has been acquired and which were pending as on 6.9.2005, the date on which the Displaced Persons (Compensation & Rehabilitation) Act, 1954 and other related Acts were repealed.
- 3.2 Cases in which direction have been issued by various Courts for settlement of claims filed, confirming that an acquired or accrued right exists in favour of the claimant, under Displaced Persons (Claims) Act, 1950.
- 3.3 Verified claims in which full compensation has not been given so far.
- 3.4 Appeals and revision/review petitions filed against orders passed by the authorities prescribed under the Repeal Act which are yet to be disposed off.

Where as keeping in view of above legal position, the case was heard by the Principal Secretary ,Revenue Dept .In view of the facts mentioned in the Revision Petition and after considering the report of the Dist Collector, Hyderabad and CCLA, Hyderabad and after examining the case in consultation with Law Dept and after careful examination of all facts it has been decided to allow the revision petition for allotment of equal alternate land to an extent of 6000 sq.yards instead of land in Plot No. 7, Road No.2 of Banjara Hills of Hyderabad.

Where as the Dist Collector, Ranga Reddy was requested to identify suitable land to an extent of 6000 sq. yards in Ranga Reddy District and furnish the same to the Government , who reported that an extent of the land admeasuring 6000 Sq.yards is available in SY.No.28 of Khajaguda (village) ,Serilingampalli (Mandal) of Ranga Reddy dist for allotment to the LR's of Late. Ramesh Kumar vide references 5th & 6th read above.

Now therefore Government after careful examination of the entire matter denovo and here by decided to allot the equal alternate land admeasuring 6000 Sq.yards in Sy.no.28 of Khajaguda (village) Serilingampalli (Mandal), Ranga Reddy Dist (with appropriate approach) to the Legal heirs of late Ramesh Kumar namely Smt.Kamala Ganorkar w/o M.C. Ganorkar (sister) and Smt.Kaushal Wahegaonkar,w/o.sri.Lakshmi Kantarao(sister) subject to condition that it should not be a precedent for other cases and each case shall be considered on its merits.

The Dist Collector, Ranga Reddy is therefore directed to take further necessary action in the matter.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

K.RATNA PRABHA
PRINICIPAL SECRETARY TO GOVERNMENT

To

Smt.Kamala Ganorkar w/o M.C. Ganorkar D/O Late.G.B.Ketkar.

H.NO.2-2-3/B/O,Durgabai Deshmukh colony,
Hyderabad.(by RP)

Smt.Kaushal Wahegaonkar, w/o.sri.Lakshmi Kantarao
D/O Late.G.B.Ketkar.

H.no.81/A/11,Gir Darshan Society ,Baner Road.

PUNE, MAHARSHTRA. . (by RP)

The Collector,Ranga reddy Dist.

The Collector,Hyderabad Dist .

The Chief Commissioner and Land Administration ,Hyderabad.

Copy to The Deputy collector and Tahsildar , Serilingampalli (Mandal), Ranga Reddy Dist.

Sf/SC

// FORWARDED BY ORDER //

SECTION OFFICER